

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-cv-329-GKF(PJC)
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**STATE OF OKLAHOMA'S MOTION IN LIMINE TO PRECLUDE EXPERT
TESTIMONY OF DEFENDANTS' WITNESS JAY CHURCHILL
AND INTEGRATED BRIEF IN SUPPORT THEREOF**

Plaintiff, the State of Oklahoma ("the State"), pursuant to Fed. R. Evid. 104 and 702, and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), respectfully moves this Court for an order in limine precluding Defendants' witness, Jay Churchill ("Mr. Churchill"), from giving any opinion testimony on the ground that he lacks necessary qualifications to answer the "specific" questions at issue. In the alternative, even if the Court determines that Mr. Churchill is sufficiently qualified, the State moves the Court to enter an order in limine precluding Mr. Churchill from testifying regarding: (1) the reliability, representativeness or integrity of the State's analytical sampling data and/or results; and (2) any "industry standard" for which there is no documented or verifiable basis beyond the *ipse dixit* of Mr. Churchill himself. In support of this Motion, the State shows the Court as follows:

I. Introduction and Factual Background

Mr. Churchill is an engineer employed by Conestoga-Rovers and Associates ("CRA"). Ex. A (Churchill Report at 2). CRA was retained by Defendants in June 2006 principally to monitor certain field sampling activities conducted on behalf of the State -- by Camp Dresser and

McKee (“CDM”) -- on contract growers' farms, including a portion of CDM's soil, groundwater, surface/spring water, and poultry litter sample collection activities. *Id.* at 1.

In November 2008, Mr. Churchill submitted to the State his expert report entitled, “CRA Second Report: Illinois River Watershed Oklahoma and Arkansas” (“Churchill Report” or “Report”). *See* Ex. A. The Churchill Report contains a summary of CRA’s alleged observations of certain CDM field activities and Mr. Churchill’s opinions that CDM violated various Standard Operating Procedures (“SOPs”), guidance documents and “industry standards”. *Id., passim.*

Though Mr. Churchill was tasked by CRA with drafting the Report in critique of the State’s sampling program, Mr. Churchill’s relevant experience ranges from limited to non-existent:

Q. [H]ave you ever actually drafted an SOP [or, Standard Operating Procedure]?
A. Not an SOP per se.

Q. Okay. Have you ever conducted environmental sampling concerning non-point source runoff?
A. No.
Q. Have you ever conducted an environmental investigation of an entire watershed?
A. No.
Q. Have you ever conducted soil sampling for the purposes of investigating soil phosphorus content?
A. No.
Q. More generally, have you ever conducted soil sampling for the purpose of investigating soil nutrient content?

A. No.
Q. Have you ever conducted soil sampling for the purpose of investigating bacteria content?
A. No.
Q. Have you ever conducted surface or groundwater sampling for the purpose of investigating phosphorus levels?
A. No.

Q. ...Have you ever conducted surface or groundwater sampling for the purposes of investigating nutrient levels?

- A. No.
- Q. Okay. Have you ever taken an edge of field sample?
- A. That's a broad question. Can you be more specific, please?
- Q. Well, like, for instance, a sample of material that's running off of a field.
- A. What kind of material?
- Q. Any.
- A. A sample of material that's running off a field? Not that comes to mind, no.

Ex. B (Churchill Depo. at 27:25 – 28:3; 31:23 – 33:13). Furthermore, as a project manager, Mr. Churchill has never implemented soil sampling SOP. *Id.* at 39:17-21.

Despite his apparent lack of pertinent experience, Mr. Churchill does not hesitate to harshly criticize CDM's sampling program and resulting data. In several sections of his Report, Mr. Churchill opines that CDM's various alleged failures in the field have rendered the State's analytical data and results unreliable and/or unrepresentative. For example, Mr. Churchill opines:

“[A]s a result of CDM's field personnel deviating from written sampling protocols and procedures, or otherwise collecting samples using technically unsound procedures, the samples collected by CDM were compromised and/or otherwise unreliable and unrepresentative of conditions and therefore resulted in unrepresentative analytical results.” Ex. A (Churchill Report at 2).

“This general lack of care is typical of the field sampling activities conducted by CDM and observed by CRA, and impairs the defensibility of the integrity of samples collected by CDM and the representativeness of the analytical results generated therefrom.” *Id.* at 9.

“[F]ield implementation of the SOP would not have been consistent or repeatable and CDM cannot defend that the resulting data are reliable.” *Id.* at 20.

Mr. Churchill also specifically claims that CDM's soil sampling program resulted in “cross-contamination” such that CDM “cannot defend that the analytical results are representative.” *Id.* at 17-18. *See also, e.g.,* Ex. A (Churchill Report at 5, 10, 21, 25).

The State strongly disputes the factual allegations made by Mr. Churchill, and at trial, will present evidence demonstrating that CDM's sampling program was sound and compliant

with all applicable standards. In any event, the facts clearly demonstrate that Mr. Churchill has no valid basis upon which to opine as to the reliability, integrity or representativeness of the State's analytical results or data. Indeed, during his deposition, Mr. Churchill repeatedly admitted that he had not reviewed or analyzed *any* of the State's analytical data:

- Q. Have you reviewed any of the analytical data?
 A. No, I haven't.
 Q. Has anyone from CRA reviewed the analytical data?
 A. I don't believe so, no.

Ex. B (Churchill Depo. at 35:13-17). *See also, Id.* at 105:2-5; 107:22 – 108:12; 111:4-11; 139:8-10; 146:22 – 147:3; 148:8-17; 200:1-8; 205:4-21.

Nonetheless, it is Mr. Churchill's position that he does not need to review the data to make a judgment that the data is unreliable. For example, with respect to the State's spring sampling data, Mr. Churchill testified as follows:

- Q. Okay. You've also been critical of CDM for certain spring sampling activities; correct?
 A. That's correct.
 Q. Specifically you claim that certain spring samples contain suspended sediments; correct?
 A. Correct.
 Q. Did you examine any of the actual spring sampling data?
 A. No, I did not examine the data.
 Q. So you don't know whether the spring sampling data showed the presence of suspended sediment?
 A. You don't need to review data to observe that water samples were collected from areas with suspended sediments.

 Q. ...I'm just asking you a simple question of whether you know whether any of the spring sampling data showed the presence of suspended sediments. Do you know?
 A. No, *I don't know if the data showed that.* I know my eyes showed that.

Ex. B (Churchill Depo. at 204:23 – 205:21) (emphasis added).

By contrast, Roger Olsen of CDM has actually reviewed and analyzed the sampling data and performed a statistical analysis of the potential for cross contamination. *See* Ex. C (Olsen

Report at §§ 3.12 – 3.13). Mr. Churchill has performed no such statistical analysis. Ex. B (Churchill Depo. at 148:8-17). And while Mr. Churchill claims that he might have done a “back-of-the-envelope type” calculation concerning the potential cross-contamination, that calculation was never finalized and is not reflected in his Report. *Id.* at 187:11 – 188:10.

Aside from condemning data he has never even seen, Mr. Churchill also failed to consider a vital element of CDM’s sampling program. Specifically, though Mr. Churchill claims that alleged cross-contamination in CDM’s soil and litter sampling program rendered the State’s soil and litter sampling data unreliable, it is clear that Mr. Churchill did not take into account the impact of CDM’s sample compositing process. Soil and litter samples were composited by the CDM laboratory in Denver pursuant to SOP 5-2, “Litter and Soil Sample Compositing.” Ex. D (SOP 5-2). In pertinent part, SOP 5-2 provides that:

All [soil] samples will be received by the CDM processing laboratory for compositing. Each of the 20 sub-samples will be composited into one homogeneous sample using the protocol described below.

Litter samples will be received by the CDM processing laboratory under chain-of-custody in a 5-gallon bucket.

All feathers, rocks, twigs, debris and vegetation will be removed before sieving and mixing.

All clods over 0.5 inches in diameter will be disaggregated into smaller particles by hand or the use of a decontaminated stainless steel spoon or mortar.

After mixing, the sample will be sieved to remove particles sizes of greater than 2 mm using a decontaminated US Sieve no. 10 (gravel size particles will be removed).

Id. at 1-2.

As Darren Brown of CDM has explained:

“[T]he insertion of the zero to two-inch interval into the sample bag, the loose material that was on the surface that could not be removed prior to the sample collection was segregated and not included to the extent possible in the bag. The second procedure was that once that material reached the lab, each bag was treated individually by the

laboratory technicians and the soil was dried out and all loose and organic material that was remaining...in that soil sample was segregated prior to the grinding and sieving process. So those two steps alone *would have eliminated any measurable impact that we would have been able to see in the soil.*”

Ex. E (Brown Depo. at 153:19 – 154:9) (emphasis added).

Despite the clear import of the laboratory compositing process in minimizing any cross-contamination and assuring the quality of the soil and litter samples, Mr. Churchill makes no mention of SOP 5-2 or the lab compositing process in his Report. And Mr. Churchill admitted during his deposition that he has no opinion as to whether CDM complied with the compositing process set forth in SOP 5-2. Ex. B (Churchill Depo. at 139:13-24; 141:23 – 142:5).

Lastly, Mr. Churchill has offered opinions that CDM violated certain “industry standards” which have no verifiable basis independent of the *ipse dixit* of Mr. Churchill. On one hand, Mr. Churchill has conceded that the relevant “industry standards” are found in EPA and state guidance documents. Ex. B (Churchill Depo. at 50:25 – 51:13). On the other hand, Mr. Churchill has opined that CDM violated alleged “industry standards” which cannot be found in any EPA or other guidance document. *See, e.g.* Churchill Depo. at 162:24 – 163:11; 165:24 – 167:7.

Mr. Churchill lacks the pertinent experience and qualifications to render any admissible opinion regarding CDM’s sampling program performed in this case. At bottom, Mr. Churchill clearly does not have an adequate, reliable basis upon which to opine regarding data he has never seen or “industry standards” that have never been documented. The Court should grant this Motion in Limine.

II. Legal Standard

Federal Rule of Evidence 702 provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Thus, "Fed. R. Evid. 702 imposes on the trial judge an important 'gate-keeping' function with regard to the admissibility of expert opinions." *Ralston v. Smith & Nephew Richards, Inc.*, 275 F.3d 965, 969 (10th Cir. 2001). As an initial matter, the court must determine the expert is qualified by "knowledge, skill, experience, training, or education" to render an opinion. *Id.* "It should be borne in mind that the issue with regard to expert testimony is not the qualifications of a witness in the abstract, but whether those qualifications provide a foundation for a witness to answer a specific question." *In re Williams Sec. Lit.*, 496 F. Supp. 2d 1195, 1232 (N.D. Okla. 2007)(internal quotations omitted). An expert's qualifications must be both adequate in a general, qualitative sense and specific to the matters he proposes to address as an expert. *See id.*

Next, the court must ensure that the scientific testimony being offered is "not only relevant, but reliable." *See Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 589 (1993).¹ "To be reliable under *Daubert*, an expert's scientific testimony must be based on scientific knowledge" *Dodge v. Cotter Corp.*, 328 F.3d 1212, 1222 (10th Cir. 2003). The Supreme Court has explained that the term "scientific" "implies a grounding in the methods and procedures of science." *Daubert*, 509 U.S. at 590. Likewise, it has explained that the term **"knowledge"** **"connotes more than subjective belief or unsupported speculation."** *Id.* (emphasis added). "The court must reject unsupported speculation as well as testimony that is

¹ The Supreme Court held in *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999), that the gatekeeping function set out in *Daubert* applies not only to expert testimony based on scientific knowledge, but also expert testimony based upon technical or other specialized knowledge -- *i.e.*, it applies to all expert testimony.

based on unreliable methodology.” *Vigil v. Burlington Northern and Santa Fe Railway Co.*, 521 F.Supp.2d 1185, 1204 (D.N.M. 2007) (citations omitted).

The Supreme Court has set forth four non-exclusive factors that a court may consider in making its reliability determination: (1) whether the theory or technique can be (and has been) tested, *id.* at 593; (2) whether the theory or technique has been subjected to peer review and publication, *id.*; (3) the known or potential rate of error and the existence and maintenance of standards controlling the technique's operation, *id.* at 594; and (4) whether the theory or technique has general acceptance in the scientific community, *id.* The inquiry is "a flexible one." *Id.*; *see also id.* at 593 ("[m]any factors will bear on the inquiry, and we do not presume to set out a definitive checklist or test"); *Dodge*, 328 F.3d at 1222 ("the list is not exclusive"). "The focus [of the inquiry] . . . must be solely on principles and methodologies, not on the conclusions that they generate." *Daubert*, 509 U.S. at 595.

Importantly, “[n]either *Daubert* nor the Federal Rules of Evidence ‘require[] a district court to admit opinion evidence which is connected to existing data only by the *ipse dixit* of the expert.’”² *Norris v. Baxter Healthcare Corp.*, 397 F.3d 878, 886 (10th Cir. 2005) (quoting *General Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997)). “A court may conclude that there is simply too great an analytical gap between the data and the opinion proffered.” *Id.* *See also*, *Rains v. PPG Industries, Inc.*, 361 F.Supp.2d 829, 833-34 (S.D.Ill. 2004); *Vigil*, 521 F.Supp.2d at 1204-05.

III. Argument

A. Mr. Churchill Lacks the Necessary Qualifications to Answer the “Specific” Question Presented

² The translation of “*ipse dixit*” from Latin: “It is, because I say so.”

As demonstrated *supra*, Mr. Churchill does not have the necessary specific qualifications to pass judgment on the adequacy of the State's sampling program or data. The State's allegations in the case are that the land application of poultry waste contributes to the presence of elevated nutrient and bacterial levels in the waterbodies of the IRW. Yet, as Mr. Churchill freely admits, he has never conducted environmental sampling concerning nonpoint source contamination. He further admits that he has never conducted any environmental sampling for the purposes of investigating the presence of nutrients or bacteria. Mr. Churchill has never taken an edge of field sample of any kind nor implemented a soil sampling SOP. Without any of this pertinent experience, Mr. Churchill cannot answer the "specific question" here of whether the State's field investigation in this case produced reliable and representative data. *See In re Williams Sec. Lit.*, 496 F. Supp. 2d at 1232. Thus, Mr. Churchill's opinions should be excluded in their entirety.

B. Mr. Churchill's Opinions Concerning the State's Sampling Data and Results are Unreliable

Even if the Court determines that Mr. Churchill is sufficiently qualified, his opinions regarding the State's sampling data and analytical results are patently unreliable. The chief problem with Mr. Churchill's opinions concerning the State's data is that they are void of any discernable analytic foundation. *See, e.g., Brown v. Am. Honda Motor Co.*, 939 F.2d 946, 952 (11th Cir. 1991). Mr. Churchill did not employ *any* clear methodology, let alone a reliable methodology that meets the dictates of *Daubert*. He simply makes leaps in logic, with no analytical basis, in opining about the adequacy and reliability of data and results that he has never seen or analyzed. It is axiomatic that one cannot reliably opine concerning data he has never laid eyes on. But this is exactly what Mr. Churchill seeks to do here. Whatever "basis" Mr. Churchill has for his opinions, it is not scientific -- it is speculation.

It is true that Mr. Churchill claims to have observed some inadequacies in CDM's sampling program. But Mr. Churchill jumps the tracks by baldly concluding that those alleged observations mean that the State's sampling data and results are unreliable and unrepresentative. As a scientific matter, it is not possible for Mr. Churchill to know that anything he allegedly observed had any impact on the data. Because Mr. Churchill does not know what the data actually show, he cannot plausibly know whether the data were in fact compromised or corrupted in some manner.

Mr. Churchill offered no basis for concluding his personal observations supported his opinions in any "scientific" way. He offered no reason to believe his methods -- such as they are -- have been or could be tested, or have been subject to any scientific peer review. Similarly, he presented no testimony about the possible error rate in his own assessment of the alleged CDM errors. Mr. Churchill offered no general scientific acceptance for his essentially *ad hoc* observations and conclusion. Consequently, his opinions are in no sense "scientific," and provide no trustworthy help to the jury.

In reality, Mr. Churchill is a fact witness. He is a man who has made some limited first-hand observations of CDM's samplings activities. If relevant, Mr. Churchill could be permitted to testify as to what he claims to have witnessed. The problem is that Mr. Churchill has taken his limited observations and impermissibly extended them into unreliable opinions void of any valid underlying basis. Stripped to its core, the "basis" for Mr. Churchill's opinions concerning the data is really nothing more than the *ipse dixit* of Mr. Churchill himself. He is merely offering his "subjective belief" that the data is unreliable and speculating about what the data actually show. See *Daubert*, 509 U.S. at 590. "Because I say so" does not satisfy *Daubert*. "[T]here is

simply too great an analytical gap between the data and the opinion proffered.” *Norris*, 397 F.3d at 886.

Further, by essentially ignoring the vital role played by CDM’s laboratory compositing process in assuring sample quality, the gap between Mr. Churchill’s “knowledge” and conclusions is further widened. As established, during the compositing process, debris is removed from the samples and particles are sieved. By failing to address what impact this process would have on data reliability and representativeness, Mr. Churchill has skipped over a necessary consideration. *See State of Oklahoma v. Tyson Foods et al.*, ___ F.3d ___, (10 Cir. 2009)(“[A]ny step that renders the analysis unreliable renders the expert’s testimony inadmissible...”).

C. Mr. Churchill’s Opinions Concerning Unverifiable “Industry Standards” Are Unreliable

In a similar vein, Mr. Churchill asserts that CDM violated certain “industry standards” that cannot be found in any guidance document or other verifiable source. Following is an example from Mr. Churchill’s deposition:

- Q. Have you conducted any analysis of whether any labeling material impacted the litter sampling data?
- A. No. I’ve conducted enough sampling that I know that you’re not supposed to leave labels on your sampling equipment prior to collecting samples.
- Q. Is there -- can you point me to any guidance document that says that?
- A. No. I mean, like I’ve said, not everything has to be written down to know it’s not the standard of care that you do.
- Q. But that’s your standard?
- A. I think that’s a -- pretty much an industry standard.

Ex. B (Churchill Depo. at 166:20 – 167:7).³ *See also Id.* at 162:24 – 163:11. “Even if expert

³ Aside from lacking any verifiable basis in a guidance document, Mr. Churchill’s concerns about the label on the shovel are otherwise without merit. As Mr. Brown has explained:

testimony on the ordinary practices of a profession or trade were appropriate ‘to enable the jury to evaluate the conduct of the parties against the standards of ordinary practice in the industry,’ ...it still must comport with the reliability and helpfulness requirements of Rule 702.” *In re Rezulin Products Liability Litigation*, 309 F.Supp.2d 531, 543 (S.D.N.Y. 2004) (quoting *Marx & Co., Inc. v. Diner’s Club, Inc.*, 550 F.2d 505, 509-10 (2d Cir. 1977)). *See also Grdinich v. Bradlees*, 187 F.R.D. 77, 81 (S.D.N.Y.1999) (excluding expert opinion allegedly based on industry standards as unsupported speculation where only bases for standard were general “common-sense” guidelines.)

Especially in light of Mr. Churchill’s lack of pertinent experience, his vague testimony concerning undocumented “industry standards” is unreliable for the purposes of *Daubert*. As with his opinions concerning the State’s sampling data, such “industry standard” testimony is based on the *ipse dixit* of Mr. Churchill and should be excluded.

IV. Conclusion

WHEREFORE, in light of the foregoing, this Court should enter an order in limine precluding the expert testimony of Defendants' witness, Jay Churchill, as set out herein.

Respectfully submitted,

W.A. Drew Edmondson OBA # 2628
ATTORNEY GENERAL

“All equipment used for litter sample collection within a grower facility was used one time. ...The shovel, hand trowel, and bucket were purchased at a hardware store and brought directly to the site. In several instances, mostly in the 2007 sampling, the label was left on the shovel. The label on the shovel was not removed to demonstrate that the shovel had not been used at any other location and to limit the exposure of litter to any label adhesive that can be difficult to remove at times. Furthermore, removing the label would leave the sticky adhesive residue on the shovel which could cause sample material to stick to the shovel. The label material itself was not deemed to pose a significant, measurable contribution to any of the primary analytical parameters.”

Ex. F (Brown Aff., 2/29/08, ¶ 25).

Kelly H. Burch OBA #17067
J. Trevor Hammons OBA #20234
ASSISTANT ATTORNEYS GENERAL
STATE OF OKLAHOMA
313 N.E. 21st St.
Oklahoma City, OK 73105
(405) 521-3921

M. David Riggs OBA #7583
Joseph P. Lennart OBA #5371
Richard T. Garren OBA #3253
Sharon K. Weaver OBA #19010
Robert A. Nance OBA #6581
D. Sharon Gentry OBA #15641
David P. Page, OBA #6852
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

/s/ Louis W. Bullock
Louis W. Bullock, OBA #1305
Robert M. Blakemore, OBA #18656
BULLOCK BULLOCK & BLAKEMORE
110 West 7th Street, Suite 707
Tulsa, OK 74119-1031
(918) 584-2001

Frederick C. Baker (*pro hac vice*)
Lee M. Heath (*pro hac vice*)
Elizabeth C. Ward (*pro hac vice*)
Elizabeth Claire Xidis (*pro hac vice*)
MOTLEY RICE, LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
(843) 216-9280

William H. Narwold (*pro hac vice*)
Ingrid L. Moll (*pro hac vice*)
MOTLEY RICE, LLC
20 Church Street, 17th Floor
Hartford, CT 06103
(860) 882-1676

Jonathan D. Orent (*pro hac vice*)

Michael G. Rousseau (*pro hac vice*)
Fidelma L. Fitzpatrick (*pro hac vice*)
MOTLEY RICE, LLC
321 South Main Street
Providence, RI 02940
(401) 457-7700

**ATTORNEYS FOR PLAINTIFF,
STATE OF OKLAHOMA**

CERTIFICATE OF SERVICE

I certify that on the 18th day of May, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W.A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Atty General
J. Trevor Hammons, Assistant Atty General
Daniel P. Lennington, Assistant Atty General
OFFICE OF THE ATTORNEY GENERAL , STATE OF OKLAHOMA

fc_docket@oag.ok.gov
kelly.burch@oag.ok.gov
trevor.hammons@oag.ok.gov
daniel.lennington@oag.ok.gov

M. David Riggs
Joseph P. Lennart
Richard T. Garren
Sharon K. Weaver
Robert A. Nance
D. Sharon Gentry
David P. Page
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

driggs@riggsabney.com
jlennart@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
Robert M. Blakemore
BULLOCK BULLOCK & BLAKEMORE

lbullock@bullock-blakemore.com
bblakemore@bullock-blakemore.com

Frederick C. Baker
Lee M. Heath
William H. Narwold
Elizabeth C. (Liza) Ward
Elizabeth Claire Xidis
Ingrid L. Moll
Jonathan D. Orent
Michael G. Rousseau
Fidelma L. Fitzpatrick
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFF, STATE OF OKLAHOMA

fbaker@motleyrice.com
lheath@motleyrice.com
bnarwold@motleyrice.com
lward@motleyrice.com
cxidis@motleyrice.com
imoll@motleyrice.com
jorent@motleyrice.com
mrousseau@motleyrice.com
ffitzpatrick@motleyrice.com

Robert P. Redemann rredemann@pmrlaw.net
David C. Senger david@cgmlawok.com
PERRINE, McGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders rsanders@youngwilliams.com
E. Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS
COUNSEL FOR DEFENDANT CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

John H. Tucker jtucker@rhodesokla.com
Kerry R. Lewis klewis@rhodesokla.com
Colin H. Tucker chtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry W. West terry@thewestlawfirm.com
THE WEST LAW FIRM

Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann C. Kleibacker Lee kklee@faegre.com
Todd P. Walker twalker@faegre.com
Christopher H. Dolan cdolan@faegre.com
Melissa C. Collins mcollins@faegre.com
Colin C. Deihl cdeihl@faegre.com
Randall E. Kahnke rkahnke@faegre.com
FAEGRE & BENSON LLP

Dara D. Mann dmann@mckennalong.com
McKENNA, LONG & ALDRIDGE LLP
COUNSEL FOR DEFENDANT CARGILL, INC. and CARGILL TURKEY PRODUCTION, LLC

George W. Owens gwo@owenslawfirmnpc.com
Randall E. Rose rer@owenslawfirmnpc.com
OWENS LAW FIRM, P.C.

James M. Graves jgraves@bassettlawfirm.com
Gary V. Weeks gweeks@bassettlawfirm.com
Woody Bassett wbassett@bassettlawfirm.com
K.C. Dupps Tucker kctucker@bassettlawfirm.com
Earl Lee "Buddy" Chadick bchadick@bassettlawfirm.com
BASSETT LAW FIRM
COUNSEL FOR DEFENDANT GEORGE'S INC. AND GEORGE'S FARMS, INC.

A. Scott McDaniel smcdaniel@mhla-law.com
Nicole Longwell nlongwell@mhla-law.com
Philip D. Hixon phixon@mhla-law.com
Craig A. Mirkes cmirkes@mhla-law.com

McDANIEL HIXON LONGWELL & ACORD, PLLC

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR DEFENDANT PETERSON FARMS, INC.

sbartley@mwsgw.com

John R. Elrod
Vicki Bronson
Bruce W. Freeman
CONNER & WINTERS, LLP
COUNSEL FOR DEFENDANT SIMMONS FOODS, INC.

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com

Robert W. George
L. Bryan Burns
TYSON FOODS INC

robert.george@tyson.com
bryan.burns@tyson.com

Michael R. Bond
Erin W. Thompson
Dustin Darst
Tim Jones
KUTAK ROCK LLP

michael.bond@kutakrock.com
erin.thompson@kutakrock.com
dustin.darst@kutakrock.com
tim.jones@kutakrock.com

Stephen Jantzen
Paula Buchwald
Patrick M. Ryan
RYAN, WHALEY & COLDIRON

sjantzen@ryanwhaley.com
pbuchwald@ryanwhaley.com
pryan@ryanwhaley.com

Mark D. Hopson
Timothy Webster
Jay T. Jorgensen
Gordon D. Todd
SIDLEY AUSTIN LLP

mhopson@sidley.com
twebster@sidley.com
jjorgensen@sidley.com
gtodd@sidley.com

COUNSEL FOR DEFENDANTS TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., and COBB-VANTRESS, INC.

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

Jennifer S. Griffin
David Brown
Frank M. Evans III
LATHROP & GAGE, L.C.
COUNSEL FOR DEFENDANT WILLOW BROOK FOODS, INC.

jgriffin@lathropgage.com
dbrown@lathropgage.com
fevans@lathropgage.com

Robin S. Conrad
NATIONAL CHAMBER LITIGATION CENTER

rconrad@uschamber.com

Gary S. Chilton

gchilton@hcdattorneys.com

HOLLADAY, CHILTON AND DEGIUSTI, PLLC
COUNSEL FOR US CHAMBER OF COMMERCE AND AMERICAN TORT REFORM ASSOCIATION

D. Kenyon Williams, jr. kwilliams@hallestill.com
Michael D. Graves mgraves@hallestill.com

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON
COUNSEL FOR POULTRY GROWERS / INTERESTED PARTIES / POULTRY PARTNERS, INC.

Richard Ford richard.ford@crowedunlevy.com
LeAnne Burnett leanne.burnett@crowedunlevy.com

CROWE & DUNLEVY
COUNSEL FOR OKLAHOMA FARM BUREAU, INC.

Kendra A. Jones, Assistant Attorney General kendra.jones@arkansasag.gov
Charles L. Moulton, Sr. Ass't AG charles.moulton@arkansasag.gov
OFFICE OF THE ATTORNEY GENERAL, STATE OF ARKANSAS
COUNSEL FOR STATE OF ARKANSAS

Mia Vahlberg mvahlberg@gablelaw.com
GABLE GOTWALS

James T. Banks jtbanks@hhlaw.com
Adam J. Siegel ajsiegel@hhlaw.com
HOGAN & HARTSON
COUNSEL FOR NATIONAL CHICKEN COUNCIL, U.S. POULTRY & EGG ASS'N AND NATIONAL TURKEY
FEDERATION

John D. Russell jrussell@fellerssnider.com
William A. Waddell, Jr. waddell@fec.net
David E. Choate dchoate@fec.net
FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS P.C.
COUNSEL FOR ARKANSAS FARM BUREAU FEDERATION

Barry G. Reynolds reynolds@titushillis.com
Jessica E. Rainey jrainey@titushillis.com
TITUS HILLIS REYNOLDS LOVE DICKMAN & McCALMON

William S. Cox III wcox@lightfootlaw.com
Nikaa B. Jordan njordan@lightfootlaw.com
LIGHTFOOT FRANKLIN & WHITE LLC
COUNSEL FOR AMERICAN FARM BUREAU FEDERATION and NATIONAL CATTLEMEN'S BEEF
ASSOCIATION, AMICUS CURIAE

Richard Mullins

richard.mullins@mcafeetaft.com

McAFEE & TAFT PC

**COUNSEL FOR TEXAS FARM BUREAU, TEXAS CATTLE FEEDERS ASSN, TEXAS PORK PRODUCERS ASSN,
AND TEXAS ASSN OF DAIRYMEN**

s/ Louis W. Bullock

Louis W. Bullock